



12 MAY 2003

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In re Application of
BOMER, et al.
Application No.: 10/089,387
PCT No.: PCT/EP00/09572
Int. Filing Date: 29 September 2000
Priority Date: 01 October 1999
Attorney Docket No.: 20496327
For: FLAT GABLE COMPOSITE PACKING
PROVIDED WITH A RESEALABLE
SPOUT

DECISION ON PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's papers filed on 23 January 2003 in the United States Patent and Trademark Office (USPTO). The papers are being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the present application.

BACKGROUND

On 29 September 2000, applicant filed international application PCT/EP00/09572, which claimed priority of an earlier application filed 01 October 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 April 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 01 April 2002.

On 29 March 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a translation of the international application into English; a First Preliminary Amendment and an Information Disclosure Statement. An executed oath or declaration of the inventors was not filed.

On 27 June 2002, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide a signed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. In addition, applicant was advised of the need to provide payment of the \$130.00 surcharge for providing an oath or declaration of the inventors later than thirty months from the priority date. Applicant was provided two months to file the proper response and advised that this time

could be extended pursuant to 37 CFR 1.136(a).

On 27 November 2002, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) mailed 27 June 2002 within the time period set therein and that above-identified application was abandoned as to the United States.

On 23 January 2003, applicant responded with the present petition accompanied by an executed declaration, authorization to charge the \$130.00 surcharge for providing an oath or declaration of the inventors later than thirty months from the priority date to Deposit Account No.: 16-2500, a petition for a five-month extension of time and authorization to charge the extension of time fee to Deposit Account No.: 16-2500.

DISCUSSION

Applicant is correct that the Form PCT/DO/EO/905 mailed 27 June 2002 set a period of two months for response extendable up to five months with a proper petition and payment of the extension of time fee. As such, the response filed 23 January 2003 is considered timely filed. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

CONCLUSION

Applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) mailed 27 November 2002 is hereby **VACATED**.

This application will be given an international application filing date of **29 September 2000** and a date of **23 January 2003** under 35 U.S.C. 371.

This application is being returned to the DO/EO/US for processing in accordance with this decision.



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